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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SALIM SHAHRIAR, MUHAMMED ISLAM, AND
MARY HARVEY on behalf of themselves and all
others similarly situated,

Plaintiffs,

-against-

SMITH & WOLLENSKY RESTAURANT GROUP,
INC. d/b/a PARK AVENUE RESTAURANT AND
FOURTH WALLS RESTAURANTS LLC, d/b/a
PARK AVENUE RESTAURANT,

Defendants.

Index No. 08-cv-0057 (MGC)(DCF)

**DECLARATION OF MAURIZIO
CHIOVARO IN OPPOSITION TO
PLAINTIFFS' MOTION FOR CLASS
CERTIFICATION**

Maurizio Chiovaro hereby declares under penalty of perjury as follows:

1. I was the General Manager of Park Avenue Café ("PAC") from 2004-2006. As such, I am familiar with PAC's personnel and with PAC's tipping practices. Unless otherwise stated, I base the below statements on my personal knowledge, and/or the books and records of PAC.

2. There are 172 waiters in the putative Rule 23 class from 2007, 2006 and 2005 and there are an additional 103 waiters from 2004, 2003 and 2002 according to PAC records.

3. At least eighty-seven percent of servers in the putative class reside in New York's five boroughs according to PAC's records of their last known addresses. Of those who are not in

New York City, an additional six percent are in neighboring New Jersey or reside in New York State. Therefore, a total of approximately 93% of potential class members reside in either New York or New Jersey.

4. Prior to, or since the filing of this lawsuit, there were no wage and hour complaints concerning PAC filed before any administrative agency or court.

5. While it is perhaps self-serving to state so, PAC is one of the finest restaurants in Manhattan, and its professional and well-compensated wait staff generally have few complaints.

6. In reality, PAC's records show that the putative Rule 23 class is comprised of at least 275 individuals.

Executed on January 6, 2010

/S
Maurizio Chiovaro

CERTIFICATE OF SERVICE

I hereby certify that on January 6, 2010, a copy of the foregoing was filed electronically. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system. The parties may access this filing through the Court's system.

/S

Elena Paraskevas-Thadani

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